

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANGEL SANTIAGO,

Plaintiff,

-against-

ID&T/SFX Mysteryland LLC, Bethel Woods Center for the Arts, D & E Partners, Inc., S & B Group Enterprises, LLC, Christie Lites LLC, Contemporary Services Corporation, CSS Security, Inc., Green Mountain Concert Services, Inc., Strike Force Protective Services, Inc., Venue Smart, Kel Executive Services, ABC Corps. 1-100 (fictitious entities), & John Does 10100(fictitious names),

Defendants.
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Civil Action Number: 1:17-cv-00101

AMENDED ANSWER

Trial by Jury Demanded

Judge: PAE

The defendant GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., by their attorneys, Kowalski & DeVito, as and for an amended answer to the complaint of the plaintiff herein, respectfully alleges upon information and belief:

NATURE OF CASE

FIRST: Denies paragraph 1 of the complaint.

PARTIES

SECOND: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15 and 16 of the complaint.

THIRD: Denies each and every allegation set forth in paragraph 11 of the complaint except admits that defendant Green Mtn. Concert Services, Inc. i/s/h/a Green Mountain Concert Services, Inc., was hired by defendant ID&T/SFX Mysteryland LLC to provide some security services for the event along with other security vendors.

THE INCIDENT

FOURTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 17, 18 and 19 of the complaint.

FIFTH: Denies paragraph 20 of the complaint.

FIRST COUNT

SIXTH: Repeats the admissions and denials to the paragraph of the complaint repeated and realleged in paragraph 21 of the complaint.

SEVENTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 22 of the complaint and respectfully refers all questions of law to the court.

EIGHTH: Denies paragraphs 23, 24 and 25 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

That the injuries and damages to the plaintiff was caused in whole or in part or were contributed to by the culpable conduct and want of care on the part of the plaintiff and any such alleged damages should be fully or partially diminished by said culpable conduct and want of care pursuant to CPLR Article 14-A.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

That all risks and dangers connected with this action were known to and assumed by the plaintiff(s) herein, were open, obvious, notorious and apparent and the plaintiff(s), in undertaking an inherently dangerous activity, assumed the risk thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

That the plaintiff received remuneration and/or compensation for some or all of his claimed economic loss and that the defendant is entitled to have plaintiff's award, if any, reduced by the amount of that remuneration and/or compensation, pursuant to Section 4545(c) of the Civil Practice Law and Rules.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

That the liability of the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., if any, does not exceed fifty percent (50%) of the liability assigned to all persons and that the liability of the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., if any, for non-economic loss is limited pursuant to Article 16 of the CPLR.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

That the plaintiff failed to mitigate plaintiff's damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

That if plaintiff sustained any injury or incurred any loss or damages as alleged in the Complaint, the same were caused in whole or in part by actions or omissions of another or others over whom the answering defendant is not responsible, and whose conduct the defendant had no duty or reason to anticipate or control.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

That plaintiff's injuries, if any, were proximately caused by an unforeseeable, unanticipated, independent, intervening and/or superseding event beyond the control and unrelated to any conduct of the answering defendant.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

The answering defendant had no control over the area where the incident occurred.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

The answering defendant owned no duty or responsibility to safeguard the Plaintiff and exercised no control over Plaintiff's activities.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

At the time of the alleged incident, the Plaintiff was engaged in activity which Plaintiff

knew to be hazardous in nature and, therefore the Plaintiff assured the rise and consequences inherent in such activity.

**AS AND FOR A CROSS-CLAIM FOR CONTRIBUTION
AND/OR COMMON LAW INDEMNIFICATION AGAINST
THE CO-DEFENDANTS, ID&T/SFX Mysteryland LLC,
Bethel Woods Center for the Arts, D & E Partners, Inc., S & B
Group Enterprises, LLC, Christie Lites LLC, Contemporary
Services Corporation, CSS Security, Inc., Strike Force
Protective Services, Inc., Venue Smart, Kel Executive Services,
and ABC Corps. 1-100 (fictitious entities), & John Does
10100(fictitious names), THE DEFENDANT, GREEN MTN.
CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN
CONCERT SERVICES, INC., ALLEGES:**

That any injuries and damages sustained by the plaintiff herein as a result of the alleged incident described in the plaintiff's Complaint were sustained in whole or in part by reason of the negligence or other breach of duty on the part of the co-defendants, ID&T/SFX Mysteryland LLC, Bethel Woods Center for the Arts, D & E Partners, Inc., S & B Group Enterprises, LLC, Christie Lites LLC, Contemporary Services Corporation, CSS Security, Inc., Strike Force Protective Services, Inc., Venue Smart, Kel Executive Services, and ABC Corps. 1-100 (fictitious entities), & John Does 10100(fictitious names).

That if it is determined that the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., is liable in any degree to the plaintiff(s), whether because of negligence, by operation of law or any other reason, the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., is entitled to have the liability apportioned among and between the defendants by way of contribution and/or is entitled to be have common law indemnity from one or more of said co-defendants.

**AS AND FOR A CROSS-CLAIM FOR CONTRACTUAL
INDEMNIFICATION AGAINST THE CO-DEFENDANTS,
ID&T/SFX Mysteryland LLC, Bethel Woods Center for the
Arts, D & E Partners, Inc., S & B Group Enterprises, LLC,
Christie Lites LLC, Contemporary Services Corporation, CSS
Security, Inc., Strike Force Protective Services, Inc., Venue
Smart, Kel Executive Services, and ABC Corps. 1-100
(fictitious entities), & John Does 10100(fictitious names), THE
DEFENDANT, GREEN MTN. CONCERT SERVICES, INC.
i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC.,
ALLEGES:**

That on or before June 24, 2013, the co-defendants, ID&T/SFX Mysteryland LLC, Bethel Woods Center for the Arts, D & E Partners, Inc., S & B Group Enterprises, LLC, Christie Lites LLC, Contemporary Services Corporation, CSS Security, Inc., Strike Force Protective Services, Inc., Venue Smart, Kel Executive Services, and ABC Corps. 1-100 (fictitious entities), & John Does 10100 (fictitious names), entered into an agreement whereby said codefendants agreed to indemnify and hold defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., harmless in the event any suit or claim for personal injuries, property damage and/or wrongful death was made as a result of the work being done pursuant to said agreement.

That said agreement was in full force and effect on May 24, 2015.

That the claims being made by the plaintiff herein, if true, will entitle the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., to be indemnified and held harmless as aforesaid including reimbursement of attorney fees, legal costs and expenses.

WHEREFORE, the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., demands judgment dismissing the Complaint of the plaintiff(s) herein with costs and further demands that the ultimate rights of the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., and the co-defendants, ID&T/SFX Mysteryland LLC, Bethel

Woods Center for the Arts, D & E Partners, Inc., S & B Group Enterprises, LLC, Christie Lites LLC, Contemporary Services Corporation, CSS Security, Inc., Strike Force Protective Services, Inc., Venue Smart, Kel Executive Services, and ABC Corps. 1-100 (fictitious entities), & John Does 10100(fictitious names), be determined as between themselves in that the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., have judgment over and against the co-defendants, ID&T/SFX Mysteryland LLC, Bethel Woods Center for the Arts, D & E Partners, Inc., S & B Group Enterprises, LLC, Christie Lites LLC, Contemporary Services Corporation, CSS Security, Inc., Strike Force Protective Services, Inc., Venue Smart, Kel Executive Services, and ABC Corps. 1-100 (fictitious entities), & John Does 10100 (fictitious names), for common law indemnification and/or contribution in whole or in part, and/or for contractual indemnification for the amount of any sum which may be recovered herein against the defendant, GREEN MTN. CONCERT SERVICES, INC. i/s/h/a GREEN MOUNTAIN CONCERT SERVICES, INC., together with attorneys' fees and the costs and disbursements of this action.

Dated: Brooklyn, New York
October 16, 2017

Yours etc.,

KOWALSKI & DEVITO

By: 

William A. Prinsell (WAP)

Attorneys for Defendant

GREEN MTN. CONCERT SERVICES,

INC. i/s/h/a GREEN MOUNTAIN

CONCERT SERVICES, INC.

12 Metrotech Center, 28th Floor

Brooklyn, New York 11201-3837

(718) 250-1100

Our File No.: NYNY- 32842

TO: Scott B. Piekarsky Esq.
Piekarsky & Associates, L.L.C.
Attorneys for Plaintiff
191 Godwin Avenue
Wyckoff, NJ 07481

TO: (CONTINUED)

Eustace, Marquez, Epstein,
Prezioso & Arciold
Attorneys for Co- Defendant
Bethel Woods Center for the Arts
55 Water Street, 29th Floor
New York, New York 10041
(212) 612-4200

Litchfield Cavo LLP
Attorneys for Co-Defendant
Contemporary Services Corp.
420 Lexington Avenue, Suite 2
New York, NY 10170
(212) 792-9772

Havkins Rosenfield, Ritzert & Varriale, LLP
Attorneys for Co-Defendant
ID&TISFX MYSTERLAND LLC
One Battery Park Plaza, 6th Floor
New York, NY 10004
(212) 488-1598
File No.: 10310-362

Morris Duffy Alonso & Faley
Attorneys for Co-Defendant
CSS SECURITY, INC.
2 Rector Street, 22nd Floor
New York, NY 10006

Wilson Elser Moskowitz Edelman & Dicker LLP
Attorneys for Co-Defendant
Christie Lites LLC
150 E 42nd Street,
New York, NY 10017
(212) 490-3000